

Aquifer recharge authority for Upper Guadalupe River Authority

SB 965 by Sims (Hilderbran)

DIGEST: SB 965 would have allowed the Upper Guadalupe River Authority, a district in Kerr County, to obtain a permit from the Texas Natural Resource Conservation Commission to appropriate state water from the Upper Guadalupe River to recharge underground freshwater-bearing sands and aquifers within the boundaries of the district. The state water would then have become groundwater, subject to rules adopted by an underground water conservation district that had jurisdiction over that water.

The district could have retrieved water for beneficial use from beneath land owned by the district or beneath land owned by a person who had contracted with the district. The district could have made contracts with cities or other entities located in Kerr County for the sale of the water.

**GOVERNOR'S
REASON
FOR VETO:**

"This bill gives the Upper Guadalupe River Authority the right to obtain a permit from the Texas Natural Resource Conservation Commission to appropriate state water from stream flows for the purpose of recharging underground aquifers within the boundaries of the authority. Current law is unclear on the use of the water and the authority is currently in a contested case, now pending before the Texas Water Commission. Under this bill, state water loses its character as state water and becomes groundwater subject to being pumped by any private user. The questions involved in this dispute are more properly resolved by the Commission in its hearing process, where all of the issues and interests may be considered."

RESPONSE:

Sen. Bill Sims, the author of SB 965, said: "The bill was supposed to assist the city of Kerrville in planning for future water use. They wanted to store water in Lower Trinity sands for future use. The advantage of this would be that the water would not be subject to evaporation, thus allowing better management of the resource. This concept could be used in many places to better utilize the water resources of Texas."

Rep. Harvey Hilderbran, the House sponsor of SB 965, said: "The governor vetoed SB 965 on the erroneous premise that a pending Texas Water Commission water rights application involving Upper Guadalupe

River Authority (UGRA) should be the appropriate forum for deciding whether or not UGRA should be entitled to divert stream flows for the purpose of recharging underground aquifers.

"The UGRA sought to clarify and confirm its authority in Kerr County to recharge aquifers other than the Edwards Aquifer with state water. SB 965 would still require UGRA to obtain a permit from the Texas Water Commission for these purposes. It would not, nor was it ever intended to, allow the UGRA to avoid the careful scrutiny of the Texas Water Commission and the 'applications process.'

"Regrettably, the Governor apparently did not realize this in acting to veto SB 965. The use of the technology known as Aquifer Storage and Recovery contemplated in SB 965, and by the UGRA in its permit application, would eliminate the need to construct a large surface reservoir and inundate some 300+ acres of scenic Hill country terrain. Additionally, the temporary storage of water in an underground aquifer eliminates the substantial losses associated with the evaporation experienced in surface reservoirs."

NOTES:

SB 965 passed the House on the Consent Calendar and was not analyzed in a *Daily Floor Report*.